26470.00D6AW/ema/Doc ID - 680892

#412

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATIVE AMERICAN ARTS, INC.,

Plaintiff,

v.

JEWEL FOOD STORES, INC. a/k/a JEWEL-OSCO and E. DAVIS INTERNATIONAL, INC.

Defendants.

No. 04C 0277
Judge Hibbler
Magistrate Judge Denlow

NOTICE

TO: Michael P. Mullen, Esq.
Mullen & Foster
166 West Washington Street, #600
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Roberta S. Bren, Kyoko Imai
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

PLEASE TAKE NOTICE that on the 9th day of March, 2005, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Defendant Car-Freshner Corporation, d/b/a E. Davis International's Reply In Support Of Its Motion to Strike Plaintiff's Second Amended Complaint**, a copy of which is attached hereto.

Jeffrey H. Lipe (6185734)
Beth B. Woods (6278739)
WILLIAMS MONTGOMERY & JOHN LTD.
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Certificate of Service

I certify that I served this Notice by mailing and/or hand delivery a copy to each person to whom it is directed at the address above indicated by depositing it in the U. S. Mail at 20 North Wacker Drive, Chicago, Illinois, on March 8, 2005, with proper postage prepaid.

Jeffrey H. Lipe, Attorney at Law

26470.00D6AW/ema/Doc ID - 680491

#412

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

NATIVE AMERICAN ARTS, INC.	)	
	)	
Plaintiff,	)	No. 04 C 0277
	)	
JEWEL FOOD STORES, INC. a/k/a Jewel-Osco and E. Davis International, Inc.	)	
	)	Judge Hibbler
Defendants.	)	Magistrate Judge Denlow

DEFENDANT CAR-FRESHNER CORPORATION d/b/a E. DAVIS INTERNATIONAL'S REPLY IN SUPPORT OF ITS MOTION TO STRIKE PLAINTIFF'S SECOND AMENDED COMPLAINT

NOW COMES Defendant, CAR-FRESHNER CORPORATION d/b/a E. DAVIS INTERNATIONAL (hereinafter "CFC"), by and through its attorneys, Jeffrey H. Lipe and Beth B. Woods of WILLIAMS MONTGOMERY & JOHN LTD., and for its reply in support of its Motion to Strike Plaintiff's Second Amended Complaint states as follows:

1. In its response to Car-Freshner's Motion to Strike, plaintiff alleges that the court did not limit NAA's amendment of its complaint to the removal of Enesco's claims. In support of this contention, Plaintiff simply attaches the minute order from the hearing. However, a review of the transcript from the Case Management Conference confirms that plaintiff petitioned the court to amend its complaint strictly as to the Enesco allegations, and nothing more. (A copy of the transcript from the January 19, 2005, Case Management Conference is attached hereto as Exhibit A).

2. Specifically, plaintiff's oral motion to amend the complaint transpired, verbatim, as follows:

> MR. MULLEN: Judge, one reason for the status was to report on the settlement efforts regarding, Enesco, the third-party defendant in this case. I am pleased to report that we did settle that case. And that settlement is being implemented. Part of the implementation would be an amendment of this case to eliminate the basis for any third-party complaint here by withdrawing allegations regarding certain allegations regarding certain products that came from Enesco. And I would request, Judge, 21 days to do that because we have to trace the products and amend the complaint.
>
> THE COURT: Okay. Plaintiff's request for 21 days to amend the complaint will be allowed.
>
> (See p.2 of Transcript)[1].

3. Plaintiff alleges that the court, "did not limit NAA's amendment in any way, nor was it asked to by any party." Plaintiff's argument improperly attempts to shift the burden imposed by the Federal Rules of Civil Procedure regarding amendments of pleadings to the court and to defendants. Under Rule 15(a), plaintiff has the burden of petitioning the court for leave to amend its pleading. Upon plaintiff's specific request, the court and the parties then respond. It is not incumbent upon the court to give leave or for defendant to respond to a request which plaintiff does not make. Any such assertion by plaintiff that defendant failed to object to an amendment which plaintiff did not request of the court is absurd and should be rejected by the court.

4. Plaintiff next argues that defendant's statute of limitations argument is confusing, misleading and inapplicable. Defendant never specifically represented to the court that both of the claims which plaintiff added were barred by the statute of limitations. Defendant simply asserted to the court that the added claims were potentially subject to numerous defenses, including the applicable statute of limitations.

[1] Any other reference at the Case Management Conference to plaintiff's proposed amendment to his complaint concerned the timing of the amendment and defendant's responsive pleading and was not substantive. (See pp. 5, 13 of Transcript).

5. With respect to this claim and the applicable statute of limitations, plaintiff argues that the Federal 4-year catch-all statute applies. However, plaintiff's assertion has been previously rejected by two separate Northern District Courts in the cases of *Native American Arts, Inc. v. Earthdweller, Ltd.*, No. 01 C 2370, 2002 WL 655683, at *1 (N.D.Ill.April 22, 2002) and *NAA v. Chrysalis Institute, Inc.*, No. 01 C 5714, 2002 WL 441476, at * 2 (N.D.Ill. Mar. 21, 2002). Both of these courts held that the federal catch-all limitations period was inapplicable because the IACA was enacted before § 1658. *Id.* at *2. The *Chrysalis* court determined, and the *Earthdweller* court, agreed that the most closely applicable statute of limitations is the three-year limitations period in the Illinois Consumer Fraud Act, 815 ILCS § 505/1 et seq. *Id.*

6. Consequently, while a fully briefed argument regarding the applicable statute of limitations would be premature at this point, defendant brings these above-discussed decisions to the court's attention to demonstrate the viability of a potential defense to one of the two claims which plaintiff is improperly attempting to add and to refute plaintiff's argument on this point. Further, if the court allowed plaintiff to add the Target claim, defendant will most certainly bring a motion to dismiss which will further delay the current litigation.

7. Plaintiff alleges that the addition of its two claims would not affect discovery. Such is not the case as discovery would necessarily involve additional interrogatories and requests to produce from all parties concerning each of the two new claims. Factoring in drafting, service and response time, this supplemental discovery would add, at a minimum, two months to the discovery process. In turn, the addition of the written discovery would delay the parties moving forward with oral discovery.

8. Plaintiff also fails to factor into its position regarding discovery that the two additional claims involve two additional retail distributors who could be added as defendants in

the action. Such an addition at this stage of the litigation or at any time hereafter would greatly delay the litigation as the addition of the retail defendants would essentially re-start this case from the beginning.

9. Plaintiff asserts that any delay in this litigation was caused by defendant's delay in agreeing to the Protective Order. While this contention is completely irrelevant to the court's determination of the issue of plaintiff's improper amendment, it bears mentioning that the delay in the Protective Order was the result of the parties inability to agree to the terms of the order. Except for a few very minor changes, the court accepted defendant's Protective Order as drafted, and rejected plaintiff's objections and suggestions regarding the language of the order. If there was any delay, it was due to plaintiff's unreasonable and later-rejected position on the Protective Order.

10. The parties have already responded to discovery. Given the court's recent entry of the Protective Order, it is anticipated that documents will be produced by both parties shortly and oral discovery will begin. According to the current schedule entered by the court, plaintiff was required to disclose its experts by February 14, 2005 and the parties are to complete discovery by June 30, 2005. (A copy of the court's Scheduling Order is attached hereto as Exhibit B). It will be impossible to meet these deadlines with the introduction of the two new claims, the resulting motion to dismiss, the completion of discovery on the claims and the possibility of plaintiff naming two new defendants in the case.

11. Plaintiff has known about the two additional claims for several years. If plaintiff wanted to add these claims to the current lawsuit, it should have done so by August 9, 2004, the date by which the court ordered the parties to make any amendments to its pleadings. (See Scheduling Order). Indeed, plaintiff already amended its complaint in May, 2004, to add a count

for products allegedly sold at Clark Gas Stations. Plaintiff should have added the allegations as to Target and Cubs Foods at that time or any other time before August 9, 2004, if it intended to include those claims in this lawsuit. Plaintiff has not given the court any reason for why it delayed in bringing these new claims or explained to the court why it ignored the court's Scheduling Order. As such, the court should not permit plaintiff to keep expanding the universe of his claims in this lawsuit, at will, and without reason or permission of the court.

12. Plaintiff is free to file a separate cause of action as to these two additional claims and the resulting litigation would not affect the current suit and its progression forward. One of the reasons that the court refused to consolidate the *Enesco* case with the current one several months ago was to avoid any delay in the current litigation. Likewise, the court should reject plaintiff's effort to introduce these new claims as part of the current litigation and further delay advancement of the case.

13. Finally, plaintiff claims that defendant "is making a big deal out of nothing and ignoring the practicalities involved." Plaintiff also states that one of defendant's seeming goals is to increase plaintiff's costs of litigation. Plaintiff's contention is both insulting and groundless. Defendant does not need to attempt to increase plaintiff's litigation costs as plaintiff is doing a fine job on its own. All plaintiff needs to do to reduce its cost of litigation is to follow the court's Scheduling Order and the Federal Rules of Civil Procedure. The court's Scheduling Order and the Federal Rules of Civil Procedure are not discretionary and are in place for a reason: the efficient and effective resolution of claims. The only "waste of Court resources" and violation of "the spirit of the Federal rules" is by plaintiff who has blatantly ignored the court's Scheduling Order, the court's permitted amendment of its complaint and the Federal Rules of Civil Procedure.

14. For the above stated reasons and those articulated in Plaintiff's Motion to Strike, the court should not allow Plaintiff's amendments to include the claims involving products sold at Target and Cub Foods.

WHEREFORE, Defendant, CAR-FRESHNER CORPORATION d/b/a E. DAVIS INTERNATIONAL respectfully requests that this Honorable Court enter an order striking Plaintiff's Second Amended Complaint and for any other relief the Court deems reasonable and appropriate under the circumstances.

CAR-FRESHNER CORPORATION, d/b/a
E. DAVIS INTERNATIONAL

By: _____
Jeffrey H. Lipe

Jeffrey H. Lipe
Beth B. Woods
Williams Montgomery & John Ltd.
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Firm No. 412

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATIVE AMERICAN ARTS, INC., Plaintiff, v. JEWEL FOOD STORES, INC., aka Jewel-Osco, et al., Defendants.	Docket No. 04 C 277 Chicago, Illinois January 19, 2005 9:30 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HONORABLE WILLIAM J. HIBBLER

APPEARANCES:

For the Plaintiff:
MULLEN & FOSTER, by
MR. MICHAEL PATRICK MULLEN
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For the Defendants:
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ALEXANDRA ROTH, CSR, RPR
Official Court Reporter
219 South Dearborn Street
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Chicago, Illinois 60604
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(Proceedings had in open court:)

THE CLERK: 04 C 277, Native American Arts versus Jewel Food et al. for status.

MR. MULLEN: Good morning, your Honor. Michael Patrick Mullen on behalf of plaintiff, Native American Arts.

THE COURT: Good morning.

MS. WOODS: Good morning, your Honor. Beth Woods on behalf of E. Davis International d/b/a Car Freshner.

MR. SLAVICK: Good morning, your Honor. Scott Slavick on behalf of Jewel Foods.

THE COURT: Good morning.

MR. MULLEN: Judge, one reason for the status was to report on the settlement efforts regarding, Enesco, the third-party defendant in this case. I am pleased to report that we did settle that case. And that settlement is being implemented. Part of that implementation would be on amendment of this case to eliminate the basis for any third-party complaint here by withdrawing allegations regarding certain products that came from Enesco. And I would request, Judge, 21 days to do that because we have to trace the products and amend the complaint.

THE COURT: Okay. Plaintiff's request for 21 days to amend the complaint will be allowed.

MR. MULLEN: Judge, the other thing was, I had indicated to the Court that based upon the fact that we were

able to settle the case with Enesco, that I would be suggesting to the other defendants, both Jewel and Davis, the possibility of mediation conference either before yourself or Judge -- Magistrate Judge Denlow, who has this case. My motivation is that with -- we didn't think we were going to be able to settle the Enesco thing, but mediation did prove successful. And I think that this case, which is a limited number of products, ought to be susceptible to settlement, given a good faith on the part of all the parties.

Plaintiff is in such a position to approach that in good faith. I had suggested that to Ms. Robin Bren, who is I guess the main lawyer in Virginia on behalf of Davis. I had suggested that to her. We had some preliminary conversations, including some concerns she had. I thought we had allayed her concerns. But I have not heard back from her at what her position was, even though she knows about today's status. And I had asked that we hear from her before that status.

MS. WOODS: I have spoken with --

MR. MULLEN: Yesterday, Judge, Ms. Woods, when we were discussing another problem, had indicated that she -- well, I will let Ms. Woods speak for herself, obviously. But I had heard that she may not be interested.

I also talked to Jewel, and Jewel is represented primarily by California counsel. And I spoke to California counsel about the possibility of a settlement conference. And

they are taking a it's up to Davis really. I guess they got a full indemnity arrangement between Jewel and Davis. So that's the status.

My thought is, Judge, even if there is a reluctance on the part of the parties to have a mediation, that it might well be worth the Court's effort to consider one anyways. My experience has been, and it's born out by the Enesco situation, when you got people actually at the table and start discussing the practicalities involved as well as the legal issues and the factual development that's necessary, that sometimes we are well able to settle the case. And that would be a suggestion that I would make.

MS. WOODS: All I can tell your Honor is that, based on a conversation that Mr. Mullen had with Ms. Bren, who is trademark counsel for E. Davis International, based on the preliminary terms and potential conditions that they discussed, the client was not interested. So certainly I will do whatever obviously the Court feels is appropriate. But at this stage of the game anyway, based on a conversation that she had with Mr. Mullen, there is an interest on Car Freshner's part in participating in a mediation. I think it would be fruitless.

So again, I will defer to the Court on that.

MR. MULLEN: She is referring to a conversation that I had with Ms. Bren. And Ms. Bren at that point in time was open to the suggestion of a mediation or some approach at

settlement. We never talked dollars. We never talked specifics. She had a concern about a broader issue, that it would have to do with a way of approaching settlement. And I had presented that to her. And that's what she was going to discuss with her client and get back to us.

But we had no real settlement exchange or anything like that. I just put that out there to clarify for the Court.

THE COURT: Okay. Here is what I suggest. We are going to get your amended complaint. I would suggest that the parties talk further and determine whether or not there is a basis to have a settlement conference, because if one comes with mind closed it really serves no useful purpose. If both sides are at least of a mind to want to talk about resolution, then the Court is willing to participate in that exercise as soon as possible.

Twenty-one days, what's the date for --

THE CLERK: February 9.

THE COURT: -- your amended complaint.

MS. WOODS: Your Honor, if I may?

THE COURT: Yes, ma'am.

MS. WOODS: There is an outstanding issue. As you know, we were before the Court for some time discussing the protective order. And we are 90 percent there but need the Court's help with the last 10 percent. We are prepared to discuss that today, or we are prepared to come back depending

on what the Court would like to do.

THE COURT: I don't want you to come back needlessly, so why don't we discuss it today.

MS. WOODS: Okay. Your Honor, there was -- just as a refresher, and again we are down to one last point of dispute amongst the parties, or at least amongst the plaintiff and the defendants. And that's that there was discussion about turning over the certificate signed by the consultant or the expert to Mr. Mullen so that he would have time to object as he has had problems in the past, as he indicated to the Court, with experts and so forth. Before then we could turn over confidential documents to the expert.

We crafted language, to which both parties agree, which sets the procedure in place whereby before any documents were turned over to an expert or consultant, there was a whole procedure put in place for him to object, come to Court, et cetera, et cetera. Again that language is not in dispute.

When I presented the language to Mr. Mullen, he said that he wanted that particular language, this whole procedure of ten days and petitioning the Court and objecting and so forth, to apply to every single person, including the attorneys and the paralegals and in-house counsel, parties that are representatives of the parties that are already bound by the agreement, that he wanted that language and that procedure to apply to them as well.

And my point is that was never contemplated. What was contemplated was and what the issue concerned was the experts and the consultants and giving him the opportunity to object before any information was turned over to them. Now he wants this quite frankly little bit complicated procedure to apply to attorneys and paralegals and essentially the defense team. We have got two defendants. We've got two sets of in-house counsel. And essentially it would be cumbersome and totally slow down the litigation process, which I don't believe was contemplated by certainly me or the Court when we had the discussion about turning over the certificate and so forth.

So that's where we are, your Honor.

MR. MULLEN: Judge --

THE COURT: Yes.

MR. MULLEN: It was contemplating. In fact, it was agreed upon. And if you look at counsel's proposed protective order, you will see in the back an acknowledgment by -- it's Exhibit A by people who receive access to the confidential information. It's not restricted to the experts, Judge. We had -- and I would ask the Court to refresh his recollection, that when we began our discussion the last time with the protective order, counsel came in and said that she was agreeable to meeting our request for accountability and an acknowledgment by anybody who had access to this information. And that she agreed to. She stated that. And then we went

through a process of a hearing with that premise in mind.

So everything that we did before was premised upon whoever gets access to this document, this information, signs the acknowledgment and are bound by the Court order. That was the whole point of much of the discussion. And instead of having it apply to everybody who has access to the information, or they acknowledge that they have it and they are bound by this court order, she proposes to have an acknowledgment only by experts. And we think that's inadequate, Judge. It's inadequate because there are so many people who are going to have access to this information. And if a problem arises, we need to have a paper trail. We need to have -- I need to know who actually had access to the information. That's the problem that we walked into court with, expressed to the Court previously, and that problem is still out there.

So I don't think it's onerous. The same burden falls on us. We have to acknowledge who gets access to their confidential information. But the fact that there is a number of people who have access to this information is even more reason why we need to have the acknowledgment by the people that they are indeed bound by that court order. That's -- that was the heart of the thing. And I was very frankly very surprised when counsel tried to limit it to only experts. Anybody who has access to this information should acknowledge that they are indeed bound by the protective order because

that's the point of the protective order.

THE COURT: Well, let me suggest this: I don't know that every person within the firm who is going to have access, the lawyers and their assistants or their law clerks -- the fact that they, maybe the lawyer themselves, would indicate that the firm and those people within the firm will have access. But I don't think that they need to be designated.

MR. MULLEN: That's fine. That will be fine, Judge. We would agree that a key person, a partner in the law firm, sign the acknowledgment, and we get a copy of it. That would be fine with us, Judge.

THE COURT: Counsel, do you have a problem with that? Because certainly most protective orders relate to the conduct of the lawyers in the items that they receive. So merely indicating that not just you personally but other members of your staff will have access to the information, I see no problem with that.

MS. WOODS: Your Honor, the attorneys -- by the express terms of the order, the attorneys and the -- and their support staff and their employees are already bound by the order. So we are just putting one more procedure in place, which is completely unnecessary and which --

MR. MULLEN: Judge, without the acknowledgment, we don't know who's bound by this order, and that's the reason for it.

THE COURT: Counsel, clearly the lawyers who are going to be recipients of the information are bound by the order. That's why the order is in place.

MR. MULLEN: And all we want is the acknowledgment, as your Honor indicated. That's not a big burden.

THE COURT: It's sort of a redundancy, as far as I am concerned, to say that the lawyers and their staff are going to be obligated when the whole idea of the protective order is before you turn over that information to the lawyers or to the firm you want to be assured that it is going to be protected.

MR. MULLEN: Correct. And this -- Judge, this is their acknowledgment. They already got the acknowledgment in there. This has always been contemplated, that we are going to get an acknowledgment. The only question is, does it have to be more than, let's say, the senior partner in the case? We say, no, that would be fine, Judge.

But we would want a written acknowledgment by that person that indeed they are subject to and that their employees and everybody else that gets access to this are subject to the terms of that protective order and that they have told the employees. That's in the acknowledgment, Judge. That's where that obligation comes from. It's no place else in the agreement.

MS. WOODS: It's absolutely in the protective order --

MR. MULLEN: That's why --

MS. WOODS: -- obligation --

THE COURT: One at a time.

MR. MULLEN: That's why, Judge, it's necessary. And I don't think it's burdensome or onerous to have a partner in the firm who's taking responsibility for the case, who's getting the information, to acknowledge it on the exhibit form as it was always contemplated.

THE COURT: Counsel, will you indicate where you believe it's already in the agreement?

MS. WOODS: Certainly, your Honor.

Counsel for each party who obtains a document or information designated confidential under the court order shall not disclose or permit disclosure of any such information or document or its contents, et cetera, to any other person or entity except in the following circumstances. And then it lays out, and one of the categories is employees of counsel, and has a conversation about that.

Your Honor, we are officers of the Court. We are bound by this order. This conversation is quite frankly --

MR. MULLEN: Judge, could I tender to you the exhibit that we are talking about?

THE COURT: Sure.

MR. MULLEN: Acknowledgment, please.

THE COURT: Is the acknowledgment that you suggest be added included here?

MR. MULLEN: That's what we want signed by the partner of the firm, Judge.

(Brief pause.)

THE COURT: It seems to me that the only difference between this and what is already involved in the protective order is the requirement of instruction to other employees regarding the terms of the protective order.

MS. WOODS: Your Honor --

THE COURT: As far as I am concerned, that requirement need not be spelled out because it's implicit in the protective order, that to anyone to whom they give the information received as a result of the protective order they are certainly required to notify those persons as to a limited extent as to which that information may be utilized.

MR. MULLEN: But that's not reflected anyplace else in this protective order other than the acknowledgment that your Honor has before you. That's why we are saying we need to have that acknowledgment filled out, given back to us. And then we go on with it.

THE COURT: I don't think that's necessary. That is implicit already in the protective order. You can put a thousand things in there that are implicit that you want to be specified. But because of the nature of the protective order, that is unnecessary.

MS. WOODS: Your Honor, based on what your Honor is

saying, we will have the finalized protective order to the Court within the next couple of days, if it pleases the Court, for entry.

THE COURT: Okay.

MR. MULLEN: We just wanted to see that before it goes to the Court obviously.

THE COURT: Sure, absolutely. It will go to counsel before it comes to the Court.

MS. WOODS: Thank you.

THE COURT: Why don't we set this about 30 days out. That will give us time to have the amended complaint filed. I'm sorry. And how much time do you want to respond to the amended complaint?

MS. WOODS: Twenty-one, your Honor.

THE CLERK: Twenty-one days from February 9 will be March 2.

THE COURT: Let's have a status shortly thereafter. So by that time you folks can get back to your respective clients and find out if there is any possibility of a settlement conference.

THE CLERK: Monday, March 14, at 9:30.

MS. WOODS: Thank you, your Honor.

THE COURT: Thank you.

MR. MULLEN: One second, Judge, please?

THE COURT: I'm sorry?

MR. MULLEN: Did you say the 14th?

THE CLERK: Monday, the 14th.

MR. MULLEN: That's fine, Judge. Thank you, your Honor.

THE COURT: Thank you.

(Which were all the proceedings had at the hearing of the within cause on the day and date hereof.)

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, correct and complete transcript of the proceedings had at the hearing of the aforementioned cause on the day and date hereof.

Official Court Reporter
U.S. District Court
Northern District of Illinois
Eastern Division

2-17-05
Date

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Michael W. Dobbins
CLERK

Office of the Clerk

Jeffrey H. Lipe
Williams, Montgomery & John, Ltd.
20 North Wacker Drive
Suite 2100
Chicago, IL 60606

Case Number: 1:04-cv-00277

Title: Native Amer Arts Inc v. Jewel Food Stores

Assigned Judge: Honorable William J. Hibbler

MINUTE ORDER of 5/19/04 by Hon. William J. Hibbler : Status hearing held and continued to 8/18/04 at 9:30 a.m. Disclosure of plaintiff's expert(s) pursuant to FRCP 26(a)(2) by 2/14/05. Deposition of plaintiff' expert(s) to be completed by 4/4/05. Disclosure of defendants' expert(s) pursuant to FRCP 26(a)(2) by 5/6/05. Deposition of defendants expert(s) to be completed by 6/17/05. Disclosure of rebuttal expert(s) pursuant to FRCP 26(a)(2) by 6/27/05. All discovery to close 6/30/05. Filing of dispositive motions with supporting memoranda by 8/1/05. Joint pretrial order to be submitted in triplicate to chambers on 12/2/05 . Final pretrial conference set for 12/12/05 at 11:00 a.m. Trial set for 1/9/06 at 10:00 a.m. Parties are given leave to serve 25 interrogatories. Defendants given leave to appear pro hac vice upon payment of the filing fee. Mailed notice

This docket entry was made by the Clerk on May 20, 2004

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by ICMS, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information,